

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ANDY GAYOT, #681548,

Plaintiff,

-against-

MR. STILLETTO (Correction Officer),  
SUFFOLK COUNTY CORRECTIONAL  
FACILITY,

Defendants.  
-----X

FEUERSTEIN, District Judge:

FILED  
IN CLERK'S OFFICE  
U S DISTRICT COURT E D N Y

★ SEP 09 2015 ★

LONG ISLAND OFFICE

ORDER  
14-CV-4339(SJF)(AYS)

On July 14, 2014, incarcerated *pro se* plaintiff Andy Gayot ("plaintiff") filed a complaint under 42 U.S.C. § 1983 against the Suffolk County Correctional Facility ("Jail"), Deputy Sheriff Bryan Maldonado ("Maldonado") and Correction Officer Stilletto ("Stilletto") accompanied by an application to proceed *in forma pauperis*. By Opinion & Order dated December 8, 2014, the Court granted plaintiff's application to proceed *in forma pauperis*, and *sua sponte* dismissed plaintiff's claims with prejudice against the Jail for failure to state a claim for relief under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). Plaintiff's claim against Stilletto was *sua sponte* dismissed without prejudice for failure to state a claim for relief under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) with leave to file an amended complaint on or before January 15, 2015. Plaintiff's claim against Maldonado was stayed, and the Court ordered that the original complaint be served on Maldonado following the expiration of the time allowed to file an amended complaint if plaintiff opted not to file an amended complaint. See Opinion and Order at 7-8.

On January 20, 2015, plaintiff filed an amended complaint against the Jail and Stilletto with a letter requesting that the court postpone any further action in his case because he was

seeking to retain counsel to represent him. Docket Entry No. 11. The Court granted plaintiff's request and stayed the case for sixty (60) days to April 6, 2015. Order, dated February 5, 2015. By letter dated April 6, 2015, plaintiff requested that the Court extend the stay of his case. Docket Entry No. 15. The Court granted plaintiff's request by Order dated April 9, 2015 and extended the stay through May 25, 2015. Docket Entry No. 16. Given that the stay has now expired and no notice of appearance has been filed on plaintiff's behalf, this case will proceed *pro se*.

Accordingly, the amended complaint shall be served on the sole defendant, Stilletto, by the United States Marshal forthwith.<sup>1</sup> The Clerk of the Court shall, pursuant to Rule 77(d)(1) of the Federal Rules of Civil Procedure, serve notice of entry of this Order upon plaintiff in accordance with Rule 5(b) of the Federal Rules of Civil Procedure.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and, therefore, denies *in forma pauperis* status for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

**SO ORDERED.**

   
s/ Sandra J. Feuerstein

   
Sandra J. Feuerstein  
United States District Judge

Dated: September 9, 2015  
Central Islip, New York

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<sup>1</sup> Given that plaintiff's claim against the Jail was dismissed with prejudice in the December 8, 2014, the fact that plaintiff has included the Jail in the caption of the amended complaint does not revive such claim. And, given that plaintiff has not named Maldonado or included any allegations against him in the amended complaint, it appears that plaintiff has abandoned his claim against Maldonado.